

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

R. CATHY REARDON, on behalf of herself	)	
and all similarly situated individuals,	)	
	)	Civil Action No. 08-1730
Plaintiffs,	)	
	)	Judge Mark R. Hornak
vs.	)	
	)	Filed Electronically
CLOSETMAID CORPORATION,	)	
	)	
Defendant.	)	

**MOTION FOR SUMMARY JUDGMENT**

Defendant, ClosetMaid Corporation (“ClosetMaid”), by and through its counsel, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and pursuant to Federal Rule of Civil Procedure 56 and Western District of Pennsylvania Local Rule 56.1, moves this Court for summary judgment as to all claims asserted by Plaintiffs in this action.

As set forth fully in ClosetMaid’s Statement of Undisputed Material Facts, accompanying Appendix of Record Materials, and Memorandum of Law in Support of Motion for Summary Judgment, all of which have been filed contemporaneously with this Motion and which are incorporated by referenced as though fully set forth herein, there are no genuine issues of material fact in dispute and ClosetMaid is entitled to judgment as a matter of law.

As averred in her First Amended Class Complaint, Plaintiff asserts the following claims: Count I alleges that ClosetMaid procured consumer reports without providing a “clear and conspicuous” disclosure of its intended procurement of a consumer report to applicants in a document that consists solely of the disclosure in violation of 15 U.S.C. § 1681b(b)(2)(A)(i).

Count II alleges that ClosetMaid procured consumer reports without obtaining proper authorizations in violation of 15 U.S.C. § 1681b(b)(2)(A)(ii).

Count III alleges that ClosetMaid failed to provide a copy of the consumer report to applicants at least five (5) business days before taking adverse action in violation of 15 U.S.C. § 1681b(b)(3)(A)(i).

Count IV alleges that ClosetMaid failed to provide a summary of Fair Credit Reporting Act (“FCRA”) rights to applicants at least five (5) business days before taking adverse action in violation of 15 U.S.C. § 1681b(b)(3)(A)(ii).

Finally, Plaintiff also contends that ClosetMaid’s purported FCRA violations were willful pursuant to 15 U.S.C. § 1681n.

Despite these allegations, the uncontroverted record evidence establishes that ClosetMaid’s FCRA disclosure and authorization forms complied with 15 U.S.C. § 1681b(b). Even so, it is further undisputed that ClosetMaid changed its disclosure and authorization forms starting in July 2009 and that Class Counsel does not allege that those new forms violate FCRA in any way.

The record evidence also establishes that, of the seventy-seven (77) individuals identified by Plaintiff as constituting the Pre-Adverse Action Sub-Class, twenty-two (22) sub-class members experienced no adverse employment action; an additional fifty (50) sub-class members experienced an adverse employment action totally unrelated to their consumer report; and that, of the five (5) remaining sub-class members who did experience an adverse employment action based in whole or in part on their consumer report, ClosetMaid fully complied with its FCRA obligations by providing them with a “Pre Adverse Action Notice” accompanied by a copy of their consumer report and summary of FCRA rights.

Finally, even if ClosetMaid did not comply with one or more technical requests, a contention it disputes, such purported non-compliance is, at most, negligent and certainly not willful.

WHEREFORE, Defendant ClosetMaid Corporation, respectfully requests that this Motion be granted and that judgment be entered in its favor and against Plaintiffs. A proposed order is attached.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.**

/s/ **W. Scott Hardy**

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Counsel for ClosetMaid Corporaiton

Dated: May 24, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing DEFENDANT'S MOTION FOR SUMMARY JUDGMENT was filed electronically on May 24, 2013. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ **W. Scott Hardy**  
Counsel for Defendants

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